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15
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18 Attorneys for Plaintiffs

19
20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 CHARMAINE CHUA, ET AL.

23 PLAINTIFFS,

24 VS.

25 CITY OF LOS ANGELES, ET AL.,

26 DEFENDANTS.

CASE No: 2:16-cv-00237-JAK-GJS(x)
[HON. JOHN A. KRONSTADT]

[PROPOSED] PRELIMINARY APPROVAL
ORDER; EXHIBITS

HEARING DATE: SEPTEMBER 9, 2019
HEARING TIME: 8:30 A.M.
COURTROOM: 10B

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1 The parties have submitted this joint Preliminary Approval Order of the
2 Class Settlement for the Court's review. Upon review and consideration of the
3 Settlement Agreement (Exhibit A hereto) (the "Settlement Agreement") and the
4 exhibits attached thereto made and entered into by counsel for the parties, who
5 represent that their respective clients have approved the settlement.

6 The Named Plaintiffs/Class Representatives are Mary Amador, Lora
7 Barranca, Diana Paiz, Diane Vigil, Alisa Battiste, Felice Cholewiak, Evangelina
8 Madrid, Myeshia Williams, and Nancy Briseño. Plaintiffs are former (or current at
9 the time of the filing of the complaint) inmates of the Los Angeles Sheriff's
10 Department's ("LASD") women's jail known as Century Regional Detention
11 Facility (hereafter "CRDF"). Plaintiffs contended that the LASD routinely
12 subjected female inmates to highly invasive body cavity inspections, in large
13 groups (often over 40 women), without individual privacy, and despite the absence
14 of a penological justification and the ready availability of alternatives, in violation
15 of the Fourth Amendment. The Court granted summary judgment on liability. See
16 Dkt. 361. The Defendants are the County of Los Angeles, the Los Angeles County
17 Sheriff's Department, former Los Angeles County Sheriff Leroy Baca, and various
18 individual members of the LASD.

19 While Defendants continue to dispute the validity of Plaintiffs' allegations,
20 the parties have agreed to enter into this Settlement Agreement to avoid the mutual
21 risks of litigation.

22 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

23 **I. PRELIMINARY APPROVAL OF SETTLEMENT**

24 1. This Order incorporates by reference the definitions in the Settlement
25 Agreement, a copy of which is attached to this Order as Exhibit A, and also
26 incorporates Exhibits B and C, thereto. All terms defined therein shall have the
27 same meaning in this Order.

28 2. The Settlement Agreement is hereby preliminarily approved, subject

1 to further consideration thereof at the Fairness Hearing provided for below. The
2 Court finds that the class damages fund of \$255,010 (inclusive of expert and
3 mediation costs, class administration costs of \$20,000, payments to claiming class
4 members of a total of \$200,000 and \$5000 incentive awards to each of the three
5 named plaintiffs); \$484,290 (inclusive of litigation costs other than the expert,
6 mediation and class administration costs) as compensation for statutory attorney's
7 fees and costs; and \$5000 to Todd Kyle individually are within the range of what
8 would constitute a fair, reasonable, and adequate settlement in the best interests of
9 the Class as a whole, and that the terms of the Settlement Agreement otherwise
10 satisfy the Federal Rules of Civil Procedure 23(e) and due process requirements.

11 **II. DEADLINES FOR NOTICE, FILING OBJECTIONS AND OPT-**
12 **OUTS, AND DATE OF FAIRNESS HEARING**

- 13 3. The Court has set the following dates for purposes of this class action:
- 14 (a) Final class identifying information, to the extent not already provided,
15 will be provided to Class Administrator Law Office of Carol Sobel no
16 later than September 9, 2019;
- 17 (b) September 23, 2019: Text message, emailing and first class mail
18 notice (for those for whom email addresses and mobile phone
19 numbers are unavailable);
- 20 (c) September 30, 2019: Notice by regular mail to all class members who
21 were initially notified only by electronic means only (those who
22 received notice by email and text) and who have not yet submitted
23 claim forms along with the explanation that they were sent such
24 electronic notice but this notice is being sent as well because they did
25 not file a claim or exclude themselves from the settlement;
- 26 (d) October 28, 2019: Filing of Plaintiffs' Motion for Award of
27 Attorneys' Fees and Costs;
- 28 (e) November 25, 2019: Deadline to file Class Members' Objections to

any aspect of the Settlement (including Plaintiffs' Motion for Award of Attorneys' Fees and Costs): Must be postmarked or received by that date;

(f) November 25, 2019: Deadline to opt-out: Must be postmarked or received by that date;

(g) November 25, 2019: Deadline to file class claims: Must be postmarked or received by that date;

(h) December 16, 2019: Deadline to file Opposition or Reply to Objections (including to objections to award of attorneys' fees and costs);

(i) December 16, 2019: Deadline to file proposed final approval order and motion for final approval of settlement;

(j) January 13, 2020: Final Approval hearing.

4. In the event that the class notice is not communicated through text message, email and regular mail by September 23, the subsequent dates contained herein will be deferred for the number of additional days before such notice occurs without the need for additional Court approval. However, the Court must approve any change of the date of the Final Approval Hearing.

5. If the number of Opt Outs amounts to more than three, Defendants shall have the option of withdrawing from the settlement.

6. Class members have been identified exclusively from Los Angeles Police Department records Damages Class.

III. CLASS ADMINISTRATOR

7. The Court approves Carol Sobel to act as the Class Administrator in order to minimize the cost of class administration, as her office has been in contact with many class members, and this amount is meaningfully less than what would likely be paid to a professional administrator. Ms. Sobel's office has performed this service in other cases before the District Court and has assisted in maximizing

1 class participation in other cases where an outside firm was retained to administer
2 the class fund.

3 8. The Class Administrator shall preserve all written communications
4 from Class Members in response to the Class and Settlement Notice at least until
5 December 31, 2022, or pursuant to further order of the Court. All written
6 communications received by the Class Administrator from Class Members relating
7 to the Settlement Agreement shall be available at all reasonable times for
8 inspection and copying by Counsel for the Parties, and copies shall be regularly
9 provided to Counsel for the Parties.

10 9. The Class Administrator shall be compensated in the amount of
11 \$20,000 from the Class Damages Fund for services in connection with notice and
12 administration, which amount includes the costs of giving mailed and published
13 notice, and the other class administration services to be performed, pursuant to
14 such orders as the Court may enter from time to time.

15 10. Within two weeks after this Preliminary Approval Order is signed by
16 the Court, the City of Los Angeles shall deposit or cause to be deposited into an
17 account designated by the Class Administrator by check sent by overnight mail an
18 amount of same day available funds equal to \$20,000. If the Court does not enter
19 the Final Order of Approval and Settlement, then all such funds paid to the Class
20 Administrator, to the extent they are available after payment of all accrued class
21 administration expenses, shall be returned to Defendants.

22 11. If the settlement is not approved or otherwise does not occur, the case
23 proceeds to trial and judgment, and the plaintiffs are successful, plaintiffs shall
24 seek as awardable costs under any available legal theory class administration costs
25 incurred in the course of this settlement process, and any future or additional class
26 administration funds incurred in connection with the case (as well as any other
27 costs the plaintiffs deem appropriate).
28

1 **IV. CLASS COUNSEL**

2 12. Barrett S. Litt, Carol Sobel and Paul Hoffman are hereby confirmed as
3 counsel for the Class Representatives and the Class (“Class Counsel”).

4 13. Class Counsel are authorized to act on behalf of the Class with respect
5 to all acts or consents required by or which may be given pursuant to the
6 Settlement, and such other acts reasonably necessary to consummate the
7 Settlement.

8 **V. CLASS AND SETTLEMENT NOTICE**

9 14. Class Counsel shall provide the Class and Settlement Notice to the
10 Class Administrator for distribution according to the schedule set forth above.
11 Such notice shall be in substantially the form as proposed in Exhibit B to the
12 Settlement Agreement and shall be communicated as provided in ¶ 3(b) and (c)
13 above (providing for both text message, email and regular mail notice); returned
14 mail shall be subject to follow up mailings after appropriate searches of the
15 available databases. No notice by publication shall be required because such notice
16 has not proven effective at reaching class members, and the resources are better
17 spent on attempting to reach class members through electronic email and other
18 means of electronic outreach. See revisions to F.R.Civ.P 23 (c)(2)(B) effective
19 December 2019 (acknowledging that notice “may be by ... electronic means, or
20 other appropriate means” in addition to or in lieu of United States mail).

21 15. Defendants represent that they have already provided the name,
22 address, and other identifying information of Class Members, to Plaintiffs’
23 counsel. Such information shall be confidential and may not be disclosed to
24 anyone except counsel of record, the Class Administrator, and designated
25 representatives of Defendants. Should the Defendants discover at any time any
26 additional information containing relevant class information, they shall promptly
27 provide it to Plaintiffs’ counsel and the Class Administrator.

28 16. At least seven days before the Fairness Hearing, Class Counsel and/or

1 the Class Administrator shall serve and file a sworn statement by the Class
2 Administrator attesting to compliance with the provisions of this Order governing
3 Class and Settlement Notice. This shall include a list of all people who have opted
4 out of the class.

5 17. The Court approves the Class and Settlement Notice attached as
6 Exhibit B.

7 18. The Court approves the Claim Form attached as Exhibit C.

8 19. The Court finds that the notice required by the foregoing provisions of
9 this Order is the best notice practicable under the circumstances and shall
10 constitute due and sufficient notice of the Settlement and the Fairness Hearing to
11 all Class Members and other persons affected by and/or entitled to participate in
12 the settlement, in full compliance with the notice requirements of Rule 23 Federal
13 Rules of Civil Procedure and due process.

14 **VI. THE FAIRNESS HEARING**

15 20. A Fairness Hearing shall be held on December 16, 2019, to consider:
16 (a) the fairness, reasonableness, and adequacy of the Settlement; (b) whether a
17 Final Order of Approval and Settlement should be entered in its current or some
18 modified form; and (c) the application by Class Counsel for attorneys' fees and
19 expenses (the "Fee Motion").

20 21. Prior to the Fairness Hearing, Plaintiffs shall submit a proposed Final
21 Approval Order, which shall be approved by Defendants. That proposed order will
22 contain the final provisions the Parties seek the Court to finally approve and the
23 Parties' proposed court orders related to any objections that have been filed. It will
24 not be necessary to file a separate motion for final approval.

25 22. The date and time of the Fairness Hearing shall be set forth in the
26 Class and Settlement Notice but shall be subject to adjournment by the Court
27 without further notice to the Class Members other than that which may be posted
28 at the Court and on the Court's web site.

1 23. Any Class Member who objects to the approval of the Settlement
2 Agreement, the Fee Motion, the Named Plaintiffs' incentive awards or the
3 proposed allocation of damages among class members may appear at the Fairness
4 Hearing and show cause why any one of the foregoing should not be approved as
5 fair, reasonable, and adequate, and why the Final Order of Approval and
6 Settlement should not be entered, except that no such Class Member may appear at
7 the Fairness Hearing unless the Class Member, no later than November 4, 2019
8 [the date to file objections to the Settlement] (a) files with the Clerk of the Court a
9 notice of such person's intention to appear, a statement that indicates the basis and
10 grounds for such person's objection to the Settlement Agreement, the Fee Petition,
11 the Named Plaintiffs' incentive awards or the proposed allocation of damages
12 among class members, and all documentation, papers, or briefs in support of such
13 objection; and by the same date (b) serves upon all Counsel to the Parties (as listed
14 in the Class Notice), either in person or by mail, copies of such notice of intention
15 to appear, statement of objections and all documentation, papers, or briefs that
16 such person files with the Court. The required documentation shall include the
17 information requested on the Claim Form. Final determination of whether any
18 such objector is a Class Member who has standing to object shall be determined
19 solely from the Defendants' records, from which the list of Class Members has
20 been compiled. In the absence of the timely filing and timely service of the notice
21 of intention to appear and all other materials required by this paragraph, any
22 objection shall be deemed untimely and denied.

23 24. Pending final approval of the Settlement Agreement, no Class
24 Member shall, either directly, representatively, or in any other capacity,
25 commence, prosecute against any Defendant or participate in any action or
26 proceeding in any court or tribunal asserting any of the matters, claims, or causes
27 of action that are to be released by the Settlement Agreement upon final approval.

28 25. In the event of final approval of the Settlement Agreement, all

1 Damages Class Members (except those who have opted out) shall be forever
2 enjoined and barred from asserting any of the matters, claims or causes of action
3 released by the Settlement Agreement, and all such Class Members shall be
4 deemed to have forever released any and all such matters, claims and causes of
5 action as provided for in the Settlement Agreement.

6 **VII. OTHER PROVISIONS**

7 26. To the extent not otherwise specifically addressed in this Order,
8 Defendants and Class Counsel shall comply with the provisions of the Settlement
9 Agreement.

10 27. In the event the Settlement is not finally approved or is otherwise
11 terminated in accordance with the provisions of the Settlement Agreement, the
12 Settlement and all proceedings had in connection therewith shall be null and void,
13 except insofar as expressly provided to the contrary in the Settlement Agreement,
14 and without prejudice to the status quo ante rights of Plaintiffs, Defendants, and
15 Class Members.

16
17 DATED: _____

18 JOHN A. KRONSTADT
19 UNITED STATES DISTRICT JUDGE

20
21 SUBMITTED BY:

22 **KAYE, McLANE, BEDNARSKI & LITT**
23 **LAW OFFICE OF CAROL SOBEL**
24 **SCHONBRUN, SEPLOW, HARRIS & HOFFMAN**

25
26 By: /s/ Barrett S. Litt
27 Barrett S. Litt
28 Attorneys for Plaintiffs

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